

Larkin, Arthur (Law)

From: Larkin, Arthur (Law)
Sent: Friday, August 23, 2013 12:09 PM
To: 'Vasudha Talla'
Cc: Savino, Kimberly (Law); Nguyen, Diep (Law); Ortiz, Julie (Law); Nunez Plaintiffs' Counsel
Subject: RE: Class notice

Your information concerning areas where inmates, supposedly, reported that notice was not posted is unreliable, as demonstrated by our site visit. For example, you claimed that notice was not posted in the receiving rooms and law libraries of several jails, but our visit showed that all notices were properly posted in those areas.

We will not be responding further to any prior complaints about the notice (we have already done so, either in Ms. Nguyen's letter or via email), but I will forward your message below to DOC and request confirmation that the notice is posted in compliance with the court's order in those areas.

Separately, I believe the next 90-day certification is due on or about October 19th.

We may also serve Rule 33 interrogatories requesting the names and other identifying information for inmates who, you claim, reported that they did not see the notice in areas where it is required to be posted. We may then seek to take those inmates' depositions concerning their observations as well as what they reported to LAS representatives. As noted above, and as our experience shows, the information you are getting from these inmates is not reliable.

Arthur G. Larkin, Esq.
Senior Counsel
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From: Vasudha Talla [mailto:vtalla@ecbalaw.com]
Sent: Friday, August 23, 2013 11:03 AM
To: Larkin, Arthur (Law)
Cc: Savino, Kimberly (Law); Nguyen, Diep (Law); Ortiz, Julie (Law); Nunez Plaintiffs' Counsel
Subject: RE: Class notice

Dear Arthur,

As you know, pursuant to the terms of the Court's March 19th order, the City is under a continuing obligation to certify that the Class Notice is and remains posted in the specified areas of the City jails where it is reasonably calculated to be seen by inmates in the area. We have provided you with the areas where we have been notified that Class Notice posting is deficient (and that Ms. Nguyen's letter does not address) and await your response on whether Class Notice is properly posted there. Additionally, on August 21st (Wednesday), John Boston from the Legal Aid Society visited the following facilities and observed deficiencies in posting:

GRVC:

1B: The Class Notice was posted outside of the housing area between the gates, and too high for inmates to read

GMDC:

3M: There was no posting of the Class Notice (only posting of the *Ingles* class notice)

10/29/2013

AMKC:

Lower 6: There was no posting of the Class Notice

RNDC:

1 Central North: There was no posting of the Class Notice

These are all segregation areas, where inmates are escorted to and from their cells in handcuffs, so lack of notice in these areas cannot be attributed to inmates destroying or defacing the notice.

Mr. Boston also visited CPSU, where he observed notice had been posted. We remain concerned, however, that this posting is not in an area reasonably calculated to be seen by inmates because they are escorted to and from their cells and are not afforded an opportunity to stop and read the notice.

We don't believe there is any need for you to contact the inmates who reported not seeing the Class Notice. Mr. Boston's recent visit confirms that deficiencies in Class notice posting exist, and underscores our continuing concern about the City's compliance with the terms of the order through the jail system.

Best,
Vasudha

From: Larkin, Arthur (Law) [mailto:alarkin@law.nyc.gov]
Sent: Wednesday, August 21, 2013 9:39 AM
To: Nunez Plaintiffs' Counsel
Cc: Savino, Kimberly (Law); Nguyen, Diep (Law); Ortiz, Julie (Law)
Subject: RE: Class notice

Before we consider whether a response to your letter of yesterday's date is necessary, please reply to the message below, identifying by name, book and case number and last known home address all inmates who -- supposedly -- reported that they did not see the class notice.

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From: Larkin, Arthur (Law)
Sent: Monday, August 05, 2013 11:45 AM
To: Nunez Plaintiffs' Counsel
Cc: Savino, Kimberly (Law); Nguyen, Diep (Law); Ortiz, Julie (Law)
Subject: FW: Class notice

I forward the message below to each of you, after receiving Jonathan Chasan's out of office bounce.

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From: Larkin, Arthur (Law)
Sent: Monday, August 05, 2013 11:18 AM

10/29/2013

To: 'Chasan, Jonathan'

Subject: Class notice

Jonathan:

You have stated in the past that inmates report to your interns (and perhaps others, I'm not clear on this) that they haven't seen the class notice in certain areas inside the jails.

Do these inmates know what the class notice looks like? Do the interns show them the notice and ask, "Have you seen this?" Or do the interns ask the inmates, "Have you seen the class notice in Nunez v. City of New York," and wait for an answer? Do the inmates volunteer, in words or substance, "We know about the class action but we haven't seen the notice"?

I need some specifics about what is said to the inmates, and what they say in response, so that we can assess the reliability of these reports you say LAS is getting. Based on communications with our client, it appears that inmates may be the ones responsible for removing or tearing down class notices.

I look forward to your response, thanks.

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